EXHIBIT 8
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HB 432

Kristina Hubbard

Representing the Alternative Energy Resources Organization (AERO)

Testimony in support of HB 432

I think we can all agree that seeds are unique pieces of property because they self-propagate. Genetically engineered seeds are especially unique in that patents follow their traits wherever they turn up, including a neighbor's field, by means of pollen flow or through seed movement via animals or equipment. Such pollen and seed movement presents a direct economic threat to farmers growing non-GE products in Montana. The belief that there is a successful "coexistence" of GE seed and non-GE seed is unfounded. Contamination events are widespread and documented.

Herein lies the problem: Currently, farmers who acquire patented, genetically engineered traits from neighboring farms incur all costs attributed to loss of markets that shun or outright reject genetically engineered products. They are also at risk of patent infringement. Farmers and their lawyers face an uphill battle in cases involving the unwanted presence of patented traits in crops, because patent law does not recognize "intent" as an element of infringement. So, it doesn't matter how a company's patented seed trait ended up in a plant where it wasn't intended--through bees carrying transgenic pollen, for example--farmers whose plants test positive for a patented trait are liable for its presence in their fields.

Roundup Ready alfalfa, a relatively new genetically engineered crop on the market, is instructive. In its Technology Use Guide, Monsanto acknowledges that RR alfalfa cross-pollinates with other alfalfa crops, but does not require growers of its technology to take preventative measures for mitigating the transfer of the genetically engineered trait. Alfalfa is an important component to agriculture, especially organic agriculture, where the demand for organic dairy cannot keep up with the supply. Cross-pollination between RR alfalfa with organic and other non-GE alfalfa could increase production costs, reduce profits, or even eliminate markets for non-GE farmers and ranchers.

RR alfalfa was released for commercial sale less than two years ago. After the 2006 harvest, some companies tested the genetic purity in alfalfa seed lots. The Idaho Alfalfa & Clover Seed Growers Association published the results in a memo. An independent testing agency confirmed that 11 lots of non-RR seed tested positive for the RR gene, nine of these lots were in Montana. All of the contaminated fields exceeded the 900 feet isolation distance recommended by Forage Genetics, as well as the predicted contamination percentages presented in the company's studies. These results show that complete containment is not possible using current production methods.

A recent audit report by USDA's Inspector General found that current policies regarding experimental field trials are inadequate, finding that USDA doesn't review containment protocols that prevent experimental crops from cross-pollinating with surrounding plants. Evidence of this shortcoming is last year's discovery of an unapproved GE rice variety in the food supply--a variety that was *only allowed in field trial plantings*. Four years after research on this variety was abandoned, the variety showed up in samples taken from the food supply, spurring lawsuits by hundreds of farmers against the manufacturer, Bayer CropScience, and causing leading foreign markets to block imports. Current laws and regulations simply do not go far enough. There are no legal safeguards in place to protect farmers whose crops are damaged by experimental or commercial genetically engineered plants.

The take home message is this: The nature of these crops coupled with human error makes 100% containment impossible. The onus of protecting non-GE crops from transgenic contamination is already on the non-GE grower. The least the Montana legislature can do is pass HB 432 to ensure that in events of contamination, these farmers do not have to front the costs of market loss and eradication of patented genetically engineered material from their fields. They should not have to pay for the consequences of what is essentially a living technology that they do not want and cannot sell.

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